



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/536,582

11/15/2005

Harald Kollner

39611-99473

9215

23644 7590 07/28/2009
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

EXAMINER

KELLY, CATHERINE A

ART UNIT

PAPER NUMBER

3634

NOTIFICATION DATE

DELIVERY MODE

07/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary	Application No. 10/536,582	Applicant(s) KOLLNER ET AL.	
	Examiner CATHERINE A. KELLY	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-11 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/30/2009 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "drive pane" in line 5 is unclear. Is this the drive means? The pane? The driven pane? The only antecedent was "a side pane/the pane" and 'drive means'.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3634

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5,10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6840012 in view of US patent 4970827 and US patent 5950365.

The window winding arrangement of claim 1 is shown in the '012 reference in figures 1 and 2 where a drive means 9 for applying a driving force to the pane 2 to cause movement of the pane 2 in two different directions, and a guide means 10 as further taught in column 4 lines 21-22 for guiding the pane 2 during movement in either direction, the drive means 9 configured to cause the pane to be pressed against the guide means 10 during movement of the pane 2 in either direction, and wherein the pane 2 is driven by a linear element 5 associated with the drive means 9

The '012 reference does not show the linear element with springs.

A liner element with a spring aiding in guiding a window is shown in the '827 reference in figures 1-10 where linear element 52 has spring 76.

However, the '827 reference shows only one spring.

Art Unit: 3634

A window winding arrangement with multiple springs is shown in the '365 reference in figures 1-5 where linear element 4 has two housings 1d and 1e containing springs 3.

While the springs in the '365 reference are provided for a safety purpose rather than the guide control purpose of the '827 reference and the present invention, Examiner maintains that the '365 reference is related as figure 3-5 clearly show different winder configurations can require different spring configurations.

If applicant disagrees that the '365 reference is related, Examiner further maintains that the use of two springs instead of one would be mere design choice duplication of parts and thus obvious, see MPEP 2144.40 VI Section B.

The '012, '827, and '365 reference are all silent regarding the ratio of spring forces.

The ratio of the spring forces would be mere design choice based on factors such as desired cable tension, possible rotation of the pane, etc...It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have selected the specific ratio of spring forces based on the particular application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

One of ordinary skill in the art would be motivated to provide the window winding arrangement of the '012 reference with the spring of the '827 reference and the multiple springs of the '365 reference because the spring can assist to keep tension in the

Art Unit: 3634

driving means as taught in the '827 reference in column 6 lines 47-49 and because multiple springs can provide more precise control of the winding arrangement tension.

Regarding claim 2, the dual force points are shown at the locations of fixation parts 3 and 4 in figures 1 of the '012 reference and further taught in column 4 lines 7-10 and column 8 lines 33-39.

Regarding claim 3, guide means 10 having contact with pane 2 is shown in figure 1 and further taught in column 4 lines 27-39 of the '012 reference.

Regarding claim 4, the linear element of the '012 reference is a pull cable.

Regarding claim 5, the window winding arrangement used in a vehicle door is taught in the '012 reference in column 1 lines 9-13.

Regarding claim 10, the deflection part rollers 6 and 7 are shown in the '012 reference in figure 1.

Regarding claim 13, the window winding arrangement for motor vehicle is shown in the '012 reference in figure 1 where the drive means is motor 9 driving drum 8 with cable 5 around pulleys 6 and 7, linear element 5 being attached to window pane 2 with link members 3 and 4 and guide means 10 and the motor vehicle taught in column 1 lines 9-13. The spring is taught in the '827 reference in figure 3 where linear element 52 has spring 76. Dual springs are taught in the '365 reference in figure 5 where linear element 4 has housings 1d and 1e for springs 3.

The '012, '827, and '365 reference are all silent regarding the ratio of spring forces. The ratio of the spring forces would be mere design choice based on factors such as desired cable tension, possible rotation of the pane, etc...It would have been

Art Unit: 3634

considered obvious to one of ordinary skill in the art, at the time the invention was made, to have selected the specific ratio of spring forces based on the particular application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 14, the window winding arrangement is shown in the '012 reference in figures 1 and 2 where first and second force engagement points are shown at the location of linking members 3 and 4 coupled to the side pane 2; a first deflection element 6 positioned above the force engagement points when the side pane 2 is in a partially opened position; a second deflection element 7 positioned below the force engagement points; a flexible linear element 5 configured to extend upwardly from the first force engagement point (shown at linking member 3) over the first deflection element 6, downwardly to and under the second deflection element 7 and upwardly to the second force engagement point (shown at linking member 4); a drive means 9 positioned between the first 6 and second 7 deflection elements and configured to engage and move via drum 8 the flexible linear element 5 to apply a driving force to the pane 2 to cause movement of the pane in two different directions; a linear guide 10 further taught in column 4 lines 21-22 for guiding an edge of the pane 2 during movement of the pane in either direction

The '012 reference does not show the linear element with springs.

A liner element with a spring aiding in guiding a window is shown in the '827 reference in figures 1-10 where linear element 52 has spring 76 and the tensioning or selection of the spring 76 is taught in column 7 lines 5-19.

However, the '827 reference shows only one spring.

A window winding arrangement with multiple springs is shown in the '365 reference in figures 1-5 where linear element 4 has two housings 1d and 1e containing springs 3.

While the springs in the '365 reference are provided for a safety purpose rather than the guide control purpose of the '827 reference and the present invention, Examiner maintains that the '365 reference is related as figure 3-5 clearly show different winder configurations can require different spring configurations.

If applicant disagrees that the '365 reference is related, Examiner further maintains that the use of two springs instead of one would be mere design choice duplication of parts and thus obvious, see MPEP 2144.40 VI Section B.

One of ordinary skill in the art would be motivated to provide the window winding arrangement of the '012 reference with the spring of the '827 reference and the multiple springs of the '365 reference because the spring can assist to keep tension in the driving means as taught in the '827 reference in column 6 lines 47-49 and because multiple springs can provide more precise control of the winding arrangement tension and because the selection of spring force to apply tension can assist in the non-jamming guide goal as set forth in column 4 lines 11-20 of the '012 reference.

Art Unit: 3634

Claim 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6840012 in view of US patent 4970827 and US patent 5950365 as applied to claim 1 above and further in view of common knowledge in the art. The fixation part is shown in the '012 reference in figures 1 where pane 2 has fixation parts 3 and 4 engaging drive means 9 via linear element 5.

The '012 reference is silent in regards to the material out of which fixation parts 3 and 4 are made.

Examiner takes Official Notice that metal and plastic are known materials in the art.

One of ordinary skill would be motivated to make the fixation parts of the '012 reference out of metal or plastic because metal and plastic are both very commonly used materials in the art and have known beneficial characteristics such as the strength and durability of metal and the lightweight of plastic as well as the ease of availability of both materials which are desirable in the art.

Regarding claim 9, the fixation parts 3 and 4 at force engagement points are shown in the '012 reference in figure 1.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6840012, US4970827, and US 5950365 as applied to claim 1 above and in further view of US PG Pub 2004/0163320. The fixation parts 3 and 4 are shown in figure 1 of in the '012 reference.

The '012 reference is silent in regards to what the fixation parts are (clip, glue, etc...).

Art Unit: 3634

A clip fixation part is shown in the '320 reference in figure 11 reference numeral 242. It would have been obvious to one of ordinary skill in the art at the time of invention. One of ordinary skill would be motivated to combine because a clip is known to provide a secure connection, which is reusable, non-destructive, and inexpensive, which is always desirable in the art.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6840012 and US 4970827 as applied to claim 5 above, and further in view of US PG Pub 2002/0066232. The rail of claim 11 is not shown in the '012 reference. It is shown in the '232 reference in figure 2 where the fixation part 15 and the rail 20. One of ordinary skill would be motivated to provide the window winder of the '012 reference with the rail of the '232 reference because rails are known in the art to provide support and guiding to movable parts and thus would help guide and support the fixation part and provide a more durable product.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 6-11, 13, and 14 have been considered but are moot in view of the new ground(s) of rejection. Examiner has used an additional reference, the '365 reference, in conjunction with the previous reference in response to applicant's newly added second spring. In regards to applicant's arguments directed to the previously used '012 and '827 references, Examiner notes that the spring 76 of the '827 reference is connected to linear element 52 and further that the tensioning of the spring taught in the '827 reference in column 7 lines 5-19 in combination with the non-jamming guide taught in column 4 lines 11-39 (and more

Art Unit: 3634

generally in the Summary of Invention starting in column 1 line 34) of the '012 reference reads on the tensioned cable moving the pane through the guide of the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE A. KELLY whose telephone number is (571)270-3660. The examiner can normally be reached on Monday through Friday 9am - 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. K./
Examiner, Art Unit 3634

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634

Application/Control Number: 10/536,582

Page 11

Art Unit: 3634

cak